

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JULIAN R. HOOD, JR.,

Plaintiff,

v.

CASE NO. 1:16-CV-401

HON. ROBERT J. JONKER

UNITED STATES POSTAL SERVICE, et al,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

The Magistrate Judge's Report and Recommendation (ECF No. 5) recommends dismissing Plaintiff's complaint for failing to state a claim upon which relief may be granted, primarily based on res judicata stemming from six previous actions filed by Plaintiff. (ECF No. 5, PageID.53). Plaintiff objected that he did "not believe that res judicata applies." (ECF No. 7, PageID.55).

Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1)(C). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

Plaintiff objects to the Magistrate Judge's finding that the doctrine of res judicata, also known as claim preclusion, bars his claims. (ECF No. 7, PageID.55). He argues that some of his previous claims were not resolved on the merits, but were instead dismissed with prejudice because those claims were either: 1) covered by a previous settlement; or 2) barred by the statute of limitations. (ECF No. 7, PageID.55). The previous findings of the court still bar these claims under res judicata, even if the previous findings did not result in Plaintiff's desired day in court. The dismissal with prejudice of the previous claims was an adjudication on the merits. *Dubub v. Green Oak Twp.*, 312 F.3d 736 (6th Cir. 2002). After de novo review in this case, the Court concludes that the Report and Recommendation is legally sound and factually correct, and the Court therefore adopts it as its decision.

**IT IS THEREFORE ORDERED THAT:**

- Plaintiff's Objection (ECF No. 7) is OVERRULED.
- The Report and Recommendation of the Magistrate Judge (ECF No. 5) is APPROVED and ADOPTED as the opinion of this Court.
- Plaintiff's complaint (ECF No. 1) is DISMISSED under 28 U.S.C. § 1915(e)(2)(B)(ii).

- The Court certifies that an in forma pauperis appeal of this action would not be taken in good faith. 28 U.S.C. § 1915(a)(3).
- This case is TERMINATED.

**IT IS SO ORDERED.**

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/s/Robert J. Jonker  
Robert J. Jonker  
Chief United States District Judge

Dated: August 1, 2016